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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

LIMU COALITION; and KILAUEA)	CIVIL NO. 02-00521 BMK
NEIGHBORHOOD ASSOCIATION,)	
)	
Plaintiffs,)	
)	
v.)	
)	
JAMES H. PFLUEGER; PFLUEGER)	
PROPERTIES; and PILA'A 400, LLC,)	
)	
Defendants.)	
)	
UNITED STATES OF AMERICA; and)	CIVIL NO. 06-00140 BMK
DEPARTMENT OF HEALTH, STATE)	
OF HAWAI'I,)	PLAINTIFFS LIMU COALITION
)	AND KILAUEA NEIGHBORHOOD
Plaintiffs,)	ASSOCIATION'S AND
)	DEFENDANTS' STIPULATION RE:
v.)	AWARD OF FEES AND COSTS RE:
)	FIRST AMENDED CONSENT
JAMES H. PFLUEGER; PFLUEGER)	DECREE; ORDER
PROPERTIES; and PILA'A 400, LLC,)	
)	
Defendants.)	

* Pursuant to Local Rule 10.2(b), please refer to the signature page for the complete list of parties represented.

WHEREAS, on June 27, 2007, the parties filed a Joint Stipulation To Amend Consent Decree (“Joint Stipulation”) and lodged a First Amended Consent Decree in United States, et al., v. Pflueger, et al., Civil No. 06-00140 BMK (D. Haw.);

WHEREAS, on August 22, 2007, this Court entered an order approving the First Amended Consent Decree and directing that it shall be entered as a judgment of this Court;

WHEREAS, Plaintiffs Limu Coalition and Kilauea Neighborhood Association (“the Citizens”) seek an award of attorneys’ fees, costs, and other expenses for work reasonably spent in connection with entry of the Joint Stipulation and First Amended Consent Decree; and

WHEREAS, it is in the interest of the public, the parties, and judicial economy to resolve the Citizens’ claim relating to attorneys’ fees, costs, and other expenses without further litigation;

NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN THE CITIZENS AND DEFENDANTS that:

1. Nothing in this agreement shall be construed or offered in evidence in any proceeding as an admission or concession of any issue of fact or question of law concerning the claims for attorneys’ fees, costs, and other expenses settled

under this agreement. This agreement is executed solely for the purpose of compromising and settling the claim for attorneys' fees, costs, and other expenses.

2. Defendants agree to pay to the Citizens the sum of \$14,500.00 in full satisfaction of any and all claims against Defendants for attorneys' fees, costs and other expenses related to entry of the Joint Stipulation and First Amended Consent Decree, through and including the date of this stipulation.

3. No later than January 18, 2008, Defendants shall tender to Earthjustice a check in the amount of \$14,500.00, payable to "Earthjustice." Payment shall be coordinated with the Citizens' attorney of record: David L. Henkin, Earthjustice, 223 South King Street, Suite 400, Honolulu, Hawai'i 96813.

4. The Citizens agree to accept payment of \$14,500.00 in full satisfaction of any and all claims for attorneys' fees, costs and other expenses the Citizens may have acquired against Defendants in connection with entry of the Joint Stipulation and First Amended Consent Decree, through and including the date of this stipulation.

5. If, prior to the termination of the Consent Decree, the Citizens incur additional fees, costs or expenses for work reasonably spent to monitor or enforce compliance with the Consent Decree, pursuant to Paragraph 82.b of the Consent Decree, the Citizens reserve the right to seek future awards of those fees, costs or expenses, and Defendants reserve the right to assert that the Citizens are not

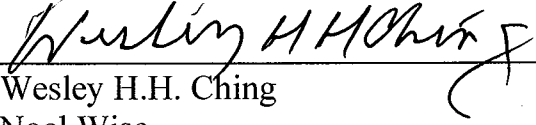
entitled to such fees, costs or other expenses. This Court retains jurisdiction to resolve those matters should they arise.

DATED at Honolulu, Hawai'i, October 16, 2007.

EARTHJUSTICE
223 South King Street, Suite 400
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By: /s/ David L. Henkin
David L. Henkin
Attorneys for Plaintiffs Limu Coalition and
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By: 
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Pflueger Properties, and Pila'a 400, LLC

APPROVED AND SO ORDERED.

DATED:

BARRY M. KURREN
UNITED STATES MAGISTRATE JUDGE

Limu Coalition, et al., v. Pflueger, et al., Civ. No. 02-00521 BMK (D. Haw.);
United States, et al., v. Pflueger, et al., Civ. No. 06-00140 BMK (D. Haw.);
PLAINTIFFS LIMU COALITION AND KILAUEA NEIGHBORHOOD
ASSOCIATION'S AND DEFENDANTS' STIPULATION RE: AWARD OF
FEES AND COSTS RE: FIRST AMENDED CONSENT DECREE; ORDER